



Senate Bill No. 2100

October 25 Special Session, Public Act No. 05-2

AN ACT CONCERNING EMERGENCY HOME HEATING ASSISTANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective from passage*) Notwithstanding the provisions of sections 4-28b and 16a-41a of the general statutes, the Commissioner of Social Services shall amend the adopted low income home energy assistance program block grant allocation plan for the purpose of modifying the 2005/2006 Connecticut energy assistance program state plan in the following manner: (1) To increase the basic benefit provided to all eligible households, including eligible households whose heat is included in their rent, by two hundred dollars, (2) to fund the contingency heating assistance program under the Connecticut energy assistance program to provide a three hundred dollar basic benefit to eligible households, as defined in the Connecticut energy assistance program state plan, whose gross annual income is not more than sixty per cent of the median state income by household size, and an additional two hundred dollar crisis assistance benefit for such households who have exhausted their basic benefit and are unable to secure primary heat, causing a life threatening situation, (3) to increase the number of households weatherized pursuant to the Connecticut energy assistance program, and (4) to increase the number of households receiving home heating equipment

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tune-ups and home energy efficiency measures pursuant to the home energy assistance and reimbursements for tune-ups on heating equipment grant program as administered pursuant to subsection (c) of section 2 of this act.

Sec. 2. (*Effective from passage*) (a) For purposes of this section:

(1) "HEARTH program" means the home energy assistance and reimbursements for tune-ups on heating equipment grant program, as established by this section;

(2) "Eligible contractor" means a petroleum product dealer registered pursuant to section 16a-22a of the general statutes, a gas company as defined in section 16-1 of the general statutes, as amended by sections 1 and 2 of public act 05-1 of the June special session, an electric distribution company, as defined in said section 16-1, or a municipal utility;

(3) "Eligible good or service" means home heating equipment tune-ups or the installation or provision of water heater blankets, window film or programmable thermostats; and

(4) "Secretary" means the Secretary of the Office of Policy and Management.

(b) The Secretary of the Office of Policy and Management, in conjunction with the Commissioner of Social Services, shall establish a home energy assistance and reimbursements for tune-ups on heating equipment grant program for the fiscal year ending June 30, 2006. Pursuant to such program, the secretary shall reimburse an eligible contractor in an amount not exceeding fifty dollars per household for an eligible good provided or eligible service performed.

(c) The commissioner shall administer the HEARTH program for households that are eligible for the Connecticut energy assistance

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program, as amended by the provisions of section 1 of this act, in accordance with Connecticut energy assistance program procedures for households heating with deliverable fuels or natural gas.

(d) (1) The secretary shall administer the HEARTH program for households that are not eligible for the Connecticut energy assistance program, as amended by the provisions of section 1 of this act. The secretary may, subject to the provisions of chapter 67 of the general statutes, employ such agents, assistants and employees as he or she deems necessary to carry out the provisions of this section. The secretary may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

(2) Households that do not qualify for the Connecticut energy assistance program, as amended by the provisions of section 1 of this act, may request from the secretary a prequalification certificate for not more than fifty dollars of eligible goods or services. An eligible contractor shall not apply to the secretary for reimbursement pursuant to the HEARTH program for eligible goods and services unless the eligible contractor submits such certificate, along with a copy of the invoice, with its application to the secretary.

(e) An eligible contractor that submits an application pursuant to the HEARTH program shall not charge the subject customer a price for a good or service that is in excess of a price for the same good or service for a customer who does not have a prequalification certificate for the HEARTH program or who is not eligible for the Connecticut energy assistance program, as amended by the provisions of section 1 of this act. Eligible contractors who will receive reimbursement pursuant to this program shall deduct the amount of such reimbursement from any invoice provided to the subject customer for the eligible good or service. Failure to comply with the provisions of this subsection shall be deemed to be an unfair trade practice within the provisions of chapter 735a of the general statutes.

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Sec. 3. (*Effective from passage*) The sum of one million dollars is appropriated to the Office of Policy and Management, from the General Fund, for the fiscal year ending June 30, 2006, for the purpose of fulfilling the duties of the Secretary of the Office of Policy and Management pursuant to section 2 of this act.

Sec. 4. (*Effective from passage*) (a) For purposes of this section, "residential weatherization products" means programmable thermostats, window film, caulking, window and door weather strips, insulation, water heater blankets, water heaters that meet the federal Energy Star standard, natural gas furnaces that meet the federal Energy Star standard, windows that meet the federal Energy Star standard, and oil furnaces that are not less than eighty-five per cent efficient.

(b) Notwithstanding the provisions of the general statutes, from November 25, 2005, to April 1, 2006, the provisions of chapter 219 of the general statutes shall not apply to sales of any residential weatherization products.

Sec. 5. (*Effective from passage*) Notwithstanding the provisions of section 16a-40b of the general statutes, as amended by section 5 of public act 05-191, for the fiscal year ending June 30, 2006, the range of rates of interest payable on all loans pursuant to subsection (b) of said section 16a-40b for purchases set forth in subsection (a) of said section 16a-40b, except for goods or services relating to aluminum or vinyl siding, replacement central air conditioning, replacement roofs, heat pumps or solar systems and passive solar additions, shall be not less than zero per cent for any applicant in the lowest income class and not more than three per cent for any applicant for whom the adjusted gross income of the household member or members who contribute to the support of the household was at least one hundred fifteen per cent of the median area income by household size.

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Sec. 6. (*Effective from passage*) The State Bond Commission shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate five million dollars. The proceeds of the sale of said bonds shall be deposited in the Energy Conservation Loan Fund established under section 16a-40a of the general statutes for the purposes of making and guaranteeing loans and deferred loans as provided in section 5 of this act. All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby which are not inconsistent with the provisions of sections 16a-40 to 16a-40b, inclusive, of the general statutes, as amended by section 5 of public act 05-191, and this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to said sections 16a-40 to 16a-40b, inclusive, and this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. Said bonds issued pursuant to said sections 16a-40 to 16a-40b, inclusive, and this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the Treasurer shall pay such principal and interest as the same become due.

Sec. 7. (*Effective from passage*) (a) The Secretary of the Office of Policy and Management, in conjunction with the Commissioner of Social Services, the Commissioner of Mental Retardation, the Commissioner

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of Mental Health and Addiction Services and the Commissioner of Children and Families, shall implement a program to provide supplemental compensation for heating costs for the fiscal year ending June 30, 2006, to residential facilities that are supported by state funds, including, but not limited to, nursing homes, which facilities are distressed as a result of rising energy costs, as determined by the secretary.

(b) The secretary shall coordinate payment procedures pursuant to this section with the commissioner who has jurisdiction over the subject residential facility.

Sec. 8. (*Effective from passage*) The sum of two million dollars is appropriated to the Office of Policy and Management, from the General Fund, for the fiscal year ending June 30, 2006, for the purpose of section 7 of this act.

Sec. 9. (*Effective from passage*) The Connecticut Energy Advisory Board shall, in consultation with the Commissioner of Social Services and the Secretary of the Office of Policy and Management, evaluate the effectiveness of the programs established or expanded by the provisions of sections 1 to 8, inclusive, of this act, in alleviating the impact of increased home heating costs during the 2005 to 2006 winter season on low and middle income households and residential facilities that are supported by state funds. Not later than January 1, 2007, the board shall submit a report containing the results of the evaluation, including, but not limited to, recommendations for further legislation, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to energy and social services.

Sec. 10. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Energy resource" shall include, but not be limited to, middle

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distillate, residual fuel oil, motor gasoline, propane, aviation gasoline and aviation turbine fuel, natural gas, electricity, coal and coal products, wood fuels and any other resource yielding energy;

(2) "Seller" shall include, but not be limited to, a supplier, wholesaler, distributor or retailer involved in the sale or distribution in this state of an energy resource;

(3) "Abnormal market disruption" refers to any stress to an energy resource market resulting from weather conditions, acts of nature, failure or shortage of a source of energy, strike, civil disorder, war, national or local emergency, oil spill or other extraordinary adverse circumstance.

(b) No seller during any period of abnormal market disruption or during any period in which an imminent abnormal market disruption is reasonably anticipated shall sell or offer to sell an energy resource for an amount that represents an unconscionably excessive price.

(c) Evidence that (1) the amount charged represents a gross disparity between the price of an energy resource that was the subject of the transaction and the price at which such energy resource was sold or offered for sale by the seller in the usual course of business immediately prior to (A) the onset of an abnormal market disruption, or (B) any period in which an imminent abnormal market disruption is reasonably anticipated, and (2) the amount charged by the seller was not attributable to additional costs incurred by the seller in connection with the sale of such product, shall constitute prima facie evidence that a price is unconscionably excessive.

(d) This section shall not be construed to limit the ability of the Commissioner of Consumer Protection or the courts to establish certain acts or practices as unfair or unconscionable in the absence of abnormal market disruptions.

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Sec. 11. (NEW) (*Effective from passage*) (a) The Attorney General, upon referral by the Commissioner of Consumer Protection, may bring a civil action in the superior court for the judicial district of Hartford against any person who violates any provisions of section 10 of this act to recover a civil penalty of not more than ten thousand dollars per violation and such equitable relief as the court deems appropriate.

(b) The Attorney General, upon referral by the Commissioner of Consumer Protection, may bring a civil action in the superior court for the judicial district of Hartford against any person who knowingly violates any provision of section 10 of this act to recover a civil penalty of not more than ten thousand dollars per violation, double damages and such equitable relief as the court deems appropriate.

(c) Notwithstanding the provisions of this section, any violation of section 10 of this act shall be deemed to be an unfair trade practice within the provisions of chapter 735a of the general statutes.

Sec. 12. (*Effective from passage*) (a) For purposes of this section, "secretary" means the Secretary of the Office of Policy and Management.

(b) The secretary shall collect, monitor and distribute information concerning home heating oil in a manner that will provide transparency of market prices to the public. Not later than one hundred twenty days after the effective date of this section, the Secretary shall provide an opportunity for public comment to determine the manner in which this policy mission will be implemented.

(c) In implementing the provisions of this section, the secretary shall consult with other relevant agencies of the state. Any ongoing assistance provided by an agency that may result in a material budgetary impact upon the assisting agency shall be provided

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pursuant to a memorandum of understanding, which shall be negotiated between the secretary and the subject agency.

(d) In implementing the provisions of subsection (b) of this section, the secretary shall collect, or cause to be collected, information on the wholesale and retail prices of home heating oil and shall establish indices of those prices so as to provide transparent market prices to the public. The indices developed pursuant to this subsection shall be transmitted to the public in a manner that provides the greatest possible public access to understandable and current information on a cost-effective basis. On and after December 1, 2005, and not later than April 30, 2006, the indices developed pursuant to this section shall be updated on a weekly basis and posted on the Office of Policy and Management's Internet web site.

(e) (1) The secretary shall monitor and analyze the information collected pursuant to subsection (d) of this section for evidence of market activities that impair the free and fair operation of the home heating oil market. The secretary shall refer such evidence, together with any other information or recommendations, to such agencies as the secretary determines may have jurisdiction to provide remedies, including, but not limited to, state, federal or local administrative, regulatory or law enforcement agencies.

(2) The secretary, in the performance of the secretary's duties, may summon and examine, under oath, such witnesses, and may direct the production of, and examine or cause to be produced and examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to the affairs of any home heating oil seller or distributor at the wholesale or retail level operating in the state as it may find advisable.

(3) Notwithstanding the provisions of the general statutes, any information, analysis or work product developed by the secretary

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pursuant to the provisions of subdivision (1) of this subsection shall not be a public record, as defined in section 4d-33 of the general statutes, except as provided in this section. Any such information referred by the secretary pursuant to subdivision (1) of this subsection shall become a public record not more than sixty days after the date of a referral unless such law enforcement agency protects such information from disclosure pursuant to law. Any information that the secretary determines not to refer pursuant to subdivision (1) of this subsection shall become a public record not more than thirty days after such determination is made.

(4) The secretary shall notify the joint standing committee of the General Assembly having cognizance of matters relating to energy of every referral of information to other agencies pursuant to subdivision (1) of this subsection, provided the scope of information provided shall be limited pursuant to subdivision (3) of this subsection. The secretary, in such notification, shall include recommendations for addressing the conditions identified, including, but not limited to, any recommendations for legislation.

(f) The chairperson of the Public Utilities Control Authority, or the chairperson's designee, the Commissioner of Social Services, or the commissioner's designee, the chairperson of the Connecticut Energy Advisory Board, and the Secretary of the Office of Policy and Management, or the secretary's designee, shall constitute a Home Heating Oil Planning Council to address issues involving the supply, delivery and costs of home heating oil and state policies regarding the future of the state's home heating oil supply. The Secretary of the Office of Policy and Management shall convene the first meeting of the council.

(g) The Home Heating Oil Planning Council shall, on an ongoing basis, monitor and analyze the information collected pursuant to subsection (d) of this section, and such other information from other

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sources as it deems appropriate, for evidence of operational or infrastructure conditions that should be addressed to enhance the reliable, free and fair operation of the state's home heating oil market. Not later than January 1, 2007, and periodically thereafter as it deems appropriate, the council shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to energy a report on the status of the state's home heating oil market, including, but not limited to, its recommendations for addressing any negative conditions identified and recommendations for legislation.

Sec. 13. Section 16a-23n of the general statutes, as amended by section 2 of public act 05-229, is repealed and the following is substituted in lieu thereof (*Effective December 1, 2005*):

(a) A contract for the retail sale of home heating oil that offers a guaranteed price plan, including fixed price contracts and any other similar terms, shall be in writing and the terms and conditions of such price plans shall be disclosed. Such disclosure shall be in plain language and shall immediately follow the language concerning the price or service that could be affected and shall be printed in no less than twelve-point boldface type of uniform font.

(b) A home heating oil dealer that advertises a price shall offer said price for a period of no less than twenty-four hours or until the next advertised price is publicized, whichever occurs first.

(c) No home heating oil dealer shall enter into a prepaid home heating oil contract or a capped price per gallon home heating oil contract unless such dealer has either: (1) Obtained and maintained heating oil futures contracts or other similar commitments that allow such dealer to purchase, at a fixed price, heating oil in an amount not less than seventy-five per cent of the maximum number of gallons that such dealer is committed to deliver pursuant to all prepaid home heating oil contracts entered into by such dealer or that such dealer

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estimates is committed pursuant to all capped price per gallon home heating oil contracts, respectively, or (2) obtained and maintained a surety bond in an amount not less than fifty per cent of the total amount of funds paid to the dealer by consumers pursuant to prepaid home heating oil contracts or that the dealer estimates will be paid to the dealer by consumers pursuant to all capped price per gallon home heating oil contracts, respectively. Such dealer shall maintain the amount of futures contracts or the amount of the surety bond required by this subsection for the period of time for which such prepaid home heating oil contracts or capped price per gallon home heating oil contracts are effective, except that the amount of such futures contracts or surety bond may be reduced during such period of time to reflect any amount of home heating oil already delivered to and paid for by the consumer.

(d) No prepaid home heating oil contract shall require any consumer commitment to purchase home heating oil pursuant to the terms of such contract for a period of more than eighteen months.

(e) Any prepaid home heating oil contract shall indicate: (1) The amount of funds paid by the consumer to the dealer under such contract, (2) the maximum number of gallons of home heating oil committed by the dealer for delivery to the consumer pursuant to such contract, and (3) that performance of such prepaid home heating oil contract is secured by one of the two options described in subsection (c) of this section. Any such contract shall provide that the contract price of any undelivered home heating oil owed to the consumer under the contract, on the end date of such contract, shall be reimbursed to the consumer not later than thirty days after the end date of such contract unless the parties to such contract agree otherwise.

Approved October 31, 2005